

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

UNITED STATES OF AMERICA,

v.

GUSTAVO ADOLPHO RAMIREZ-  
REYES,

Defendant.

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1:16-CR-006-07-ELR-AJB

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**ORDER**

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This case is before the Court on the Report and Recommendation ("R&R") issued by Magistrate Judge Baverman. (Doc. 364). The Court's rulings and conclusions are set forth below.

**I. Background**

Defendant Gustavo Adolpho Ramirez-Reyes, along with several co-defendants, has been charged in a multiple count indictment for drug distribution. Defendant filed a motion to suppress geo-location evidence (Doc. 261), specifically, historical cell site data about his cell phone which the Government obtained by a court order. Although Ramirez recognizes that the law as set forth in *United States v. Davis*, 785 F.3d 498 (11<sup>th</sup> Cir. 2015) (en banc), allows for the collection of such evidence without the necessity of a search warrant supported by

probable cause, Defendant explains that he filed the motion solely to preserve a challenge should the Supreme Court disagree with *Davis*.

## **II. Standard of Review**

The district court reviewing an R&R “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). If neither party objects, the district judge need only review the R&R for clear error and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* A party objecting to an R&R “must specifically identify those findings objected to. Frivolous, conclusive, or general objections need not be considered by the district court.” *United States v. Schultz*, 565 F.3d 1353, 1361 (11th Cir. 2009) (quoting *Marsden v. Moore*, 847 F.2d 1536, 1548 (11th Cir. 1988)) (internal quotation marks omitted).

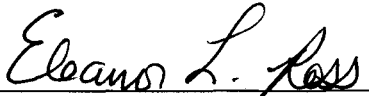
## **III. R&R on Defendants’ Motions to Suppress (Doc. 43)**

Magistrate Judge Baverman issued an R&R recommending that Defendant’s motion to suppress be denied and reiterating that the *Davis* case controls. The Court, having reviewed the R&R for clear error, agrees with Judge Baverman’s recommendation, to which there has been no objection. Thus, the Court adopts the R&R as the opinion of this Court.

**V. Conclusion**

The Court **ADOPTS** the R&R (Doc. 364) and **DENIES** Defendant's Motion to Suppress (Doc. 261).

**SO ORDERED**, this 8<sup>th</sup> day of September, 2016.

  
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Eleanor L. Ross  
United States District Judge  
Northern District of Georgia